

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Park Water Company (U314W) for Authority to Increase Rates Charged for Water Service by \$1,680,500 or 8.21% in 2007, \$571,181 or 2.57% in 2008, and \$658,677 or 2.88% in 2009.

Application 06-01-004  
(Filed January 15, 2006)

**SCOPING RULING OF ASSIGNED COMMISSIONER**

Pursuant to Rules 6(a)(3) and 6.3 of the Commission's Rules of Practice and Procedure,<sup>1</sup> this ruling sets forth the procedural schedule, assigns the principal hearing officer, and addresses the scope of the proceeding following the prehearing conference (PHC) held March 22, 2006. This ruling is appealable only as to category of the proceeding under the procedures in Rule 6.4.

**1. Background**

Park Water Company (Park) filed this general rate case (GRC) application for a general rate increase for Test Year 2007, with 2008 and 2009 selected as Escalation Years, pursuant to the new Rate Case Plan in Decision (D.) 04-06-018. The Division of Ratepayer Advocates (DRA) timely filed a protest to the application on February 5, 2006; no other protests or responses were filed. Park and DRA appeared at the March 22, 2006 PHC; no other persons appeared.

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<sup>1</sup> All references to Rules are to the Commission's Rules of Practice and Procedure found in Title 20 of the California Code of Regulations.

## **1. Categorization and Need for Hearings**

Under Rule 6.1, on March 17, 2005, the Commission preliminarily categorized this application as ratesetting as defined in Rule 5(c) and determined that the matter requires hearing. (Resolution ALJ 176-3165.) No party objects to the Commission's preliminary categorization of ratesetting for these proceedings or the preliminary determination that hearings are needed, and we affirm them.

## **2. Scope of the Proceeding**

Based on the application, DRA's protest, and the discussion at the prehearing conference, we identify the following issues for resolution in this proceeding:

1. What revenue requirement and rates should be adopted for Park for Test Year 2007, and what rate base should be adopted for Escalation Years 2008 and 2009, including but not limited to consideration of the following potentially contentious factors:
  - sales forecast for residential and commercial customers;
  - forecast of other, non-utility revenue;
  - escalation factors;
  - capital addition projects;
  - operating expenses;
  - transfer of not used and useful utility plant in service to non-utility plant;
  - capital structure, return on equity and cost of capital;
  - averaging period to be used for the five-year averaging methodology for estimating various categories of expense; and
  - general office expense allocation.
2. Whether a Water Revenue Adjustment Mechanism (WRAM) should be adopted for Park and, if so, the structure of such mechanism; and

3. Whether a low-income program should be adopted for Park and, if so, the structure of such a program.

As the proceeding moves forward, parties should develop the record with an eye toward explaining how the positions they take: (a) promote both reasonable rates and short and long term utility viability; (b) affect the utility's ability to ensure water quality in the short and long term; (c) increase customer and utility conservation incentives; (d) affect infrastructure development and investment; (e) moderate rate impacts on low income customers; and (f) make the Commission's regulatory and decision-making processes more timely and efficient.

### **3. Schedule**

With respect to issues 1 (revenue requirement and rates) and 2 (WRAM), Park and DRA propose identical schedules consistent with the Rate Case Plan, except that DRA proposes scheduling evidentiary hearings a week earlier due to staff's scheduling conflicts. Park does not oppose DRA's proposal. Due to administrative constraints, we adopt DRA's proposal only for four of the five days of scheduled hearings, and set the fifth day of scheduled hearing for a later date.

Although the parties' proposed schedules designate a certain date (May 1, 2006) for formal settlement negotiations, the parties propose that they retain the flexibility to schedule any formal settlement conference prior to evidentiary hearing. I believe that reasonable parties should be able to discuss their differences and arrive at commonly agreed-upon positions on many, if not most or all, of their issues well in advance of the evidentiary hearings. The Rate Case Plan anticipates such discussion by providing additional time for what it terms "Formal Settlement Negotiations" beginning the week after the utility

serves its rebuttal testimony. Waiting until all parties have hardened their positions before serious discussions begin, however, not only generates more work in preparing testimony on topics that might be settled, but makes it more likely that the parties will bring those hardened positions into the hearing room. To ensure the parties explore their differences early on, this Scoping Memo sets a date by which the parties are directed to meet and confer at an initial settlement session *before* finalizing their testimony, and a second settlement conference to be set prior to the start of evidentiary hearing, at which time they must report on their progress. Park and ORA shall arrange a mutually agreeable time and location for both settlement sessions.

Park did not present a proposed low-income program in its application due to its concern that the anticipated participation rate of over 30% would impose an undue burden on the non-qualifying ratepayers who will fund the cost of the program, and that a low-income program would harm low-income tenants living in master metered facilities. According to Park, the Commission dismissed those concerns with respect to Park's subsidiary, Apple Valley Ranchos Water Company, in D.05-12-020, dated December 15, 2005, and Park states that it is now prepared to work with DRA to develop a specific recommendation for a low-income program in this proceeding. Pursuant to the agreement of the parties, we will address issue 3 (low-income program) in a second phase following the submittal of the record on issues 1 and 2, in order to avoid delay in resolving those issues.

Neither party requested, in application or in protest, that the Commission hold a public participation hearing, although at the PHC Park expressed a preference that one be held. Due to the limited public interest evidenced in this proceeding, we will not set a public participation hearing at this juncture. As of

this date – approximately 80 days after the application was filed – the Commission has received only three communications from the public regarding the application.<sup>2</sup> If heightened public interest merits it, we will set a public participation hearing at a later date.

The following schedule will be adhered to as closely as possible. Evidentiary hearings will commence at 9:00 a.m. on the dates indicated, and will be held in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, CA 94102.

<b>Phase I Event</b>	<b>Date</b>
Initial settlement negotiation (no later than)	April 7, 2006
DRA report served	April 12, 2006
Utility rebuttal served	April 27, 2006
Second settlement negotiation (no later than)	May 8, 2006
Evidentiary hearings	May 9-12, 22, 2006
Concurrent opening briefs	June 5, 2006
Concurrent reply briefs	June 12, 2006
Draft decision	September 5, 2006
<b>Phase II Event</b>	<b>Date</b>
Utility supplemental report served	July 7, 2006
DRA report served	July 28, 2006
Evidentiary hearings	August 7-8, 2006
Concurrent opening briefs	August 28, 2006
Concurrent reply briefs	September 7, 2006

In Section 1 of Senate Bill (SB) 960 (Ch. 96-0856), the Legislature urges the Commission to resolve the issues within the scope of a proceeding categorized as ratesetting, such as this, within 18 months from the date of the filing of the

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<sup>2</sup> To place this in perspective, a review of the formal file indicates that, at this juncture in Park's previous general rate case application, A.03-04-015, the Commission had received 13 communications. As noted in D.03-12-040 resolving that application, approximately 30 people attended the public participation hearing and only nine attendees offered statements.

application. The schedule that we have adopted should allow us to meet that goal.

We note, however, that apparently due to an error by the newspaper, Park inadvertently failed to provide newspaper notice of this application within ten days of filing as required by Rule 24. Park indicated at the prehearing conference that newspaper notice was not made until March 8, 2006. To the extent that this late notice prompts sufficient interest to merit public participation hearings or late intervention by other parties, adjustments and/or delays to the schedule may be necessary.

#### **4. Principal hearing officer**

Pursuant to Rule 6(a)(3), assigned Commissioner Bohn designates Administrative Law Judge Hallie Yacknin as the principal hearing officer.

#### **5. Oral argument**

Any party wishing to exercise the right under Rule 8(d) to make a final oral argument before the Commission must file a written request and serve it on all parties and the assigned Commissioner and assigned ALJ not later than the last day of evidentiary hearing.

#### **IT IS RULED that:**

1. The schedule and issues to be addressed are set forth in this Scoping Memo, unless subsequently modified by the assigned Commissioner or principal hearing officer.
2. This ruling confirms the Commission's preliminary finding in Resolutions ALJ 176-3165 that the category for this proceeding is ratesetting, and the determination that hearings are necessary. This ruling, only as to category, is appealable under the procedures in Rule 6.4.
3. ALJ Hallie Yacknin is designated as the principal hearing officer.

4. Any party wishing to exercise the right under Rule 8(d) to make a final oral argument before the Commission must file a written request and serve it on all parties and the assigned Commissioner and assigned ALJ not later than the last day of evidentiary hearing.

Dated March 28, 2006, at San Francisco, California.

/s/ JOHN BOHN  
John Bohn  
Assigned Commissioner

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Scoping Ruling of Assigned Commissioner on all parties of record in this proceeding or their attorneys of record.

Dated March 28, 2006, at San Francisco, California.

/s/ ELIZABETH LEWIS  
Elizabeth Lewis

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.